

GSA Schedules vs. Open Market

Student Guide



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List of Acronyms and Websites

Below are acronyms that appear in this guide. Corresponding websites are indicated when available.

BPA	Blanket Purchase Agreement BPA
CALC	Contract Awarded Labor Category https://calc.gsa.gov/
CAP	Common Acquisition Platform https://hallways.cap.gsa.gov
CICA	Competition in Contracting Act CICA
COR	Contracting Officer's Representative COR
CTA	Contractor Team Arrangements CTA
DHS	Department of Homeland Security DHS
eBuy	Electronic Request for Quotes System www.ebuy.gsa.gov
EPA	Economic Price Adjustment EPA
FAR	Federal Acquisition Regulation www.acquisition.gov/far/index.html
FAS	Federal Acquisition Service www.gsa.gov/fas
FedBizOpps	Federal Business Opportunities FBO
FSS	Federal Supply Schedules (aka Multiple Award Schedules) MAS
GPC	Government Purchase Card GPC
GSA	General Services Administration www.gsa.gov
GSAM	General Services Administration Acquisition Manual https://www.acquisition.gov/gsam/gsam.html
GSAR	General Services Administration Acquisition Regulation GSAR
GWAC	Governmentwide Acquisition Contract www.gsa.gov/gwac
IDIQ	Indefinite Delivery/Indefinite Quantity IDIQ
IFB	Invitation for Bids IFB
JOFOC	Justification for Other than Full and Open Competition JOFOC
LH	Labor Hours LH
LSJ	Limited Sources Justification
MAS	Multiple Award Schedule www.gsa.gov/schedules
QASP	Quality Assurance Surveillance Plan QASP
RFQ	Request for Quotations RFQ
SAM	System for Award Management www.sam.gov
SAT	Simplified Acquisition Threshold SAT
SBA	Small Business Administration www.sba.gov
SDB	Small Disadvantaged Business SDB
SIN	Special Item Number SIN
SOW	Statement of Work SOW
T&M	Time and Materials

**For additional websites, please see the end of this guide.*

Course Introduction

Welcome to GSA's course on *GSA Schedules vs. Open Market*. This course will familiarize you with three commonly used methods of acquisition: issuing task or delivery orders using GSA's Multiple Award Schedules (MAS) under FAR Subpart 8.4, negotiating a stand-alone order under FAR Part 13, and negotiating a contract under FAR Part 15. All these methods of procurement may be considered when the requirement is not suitable for a sealed bid and may be used for both competitive and non-competitive acquisitions. These approaches are not your only options, but together they comprise a considerable share of Federal acquisitions.

FAR Subpart 8.4 acquisitions rely on MAS contracts that are already negotiated, and task or delivery orders may be issued under these contracts when the scope and terms of the existing contracts are appropriate for your requirement. Typically, the Schedules include multiple vendors with pre-negotiated prices for supplies, tasks, or hourly rates. You may compete your requirement among these vendors, requesting further discounts and using performance-based methods that look for the best solution to a defined objective or problem, where appropriate.

FAR Part 13 methods for simplified acquisitions are available when existing contracts do not meet your needs and the dollar value of the acquisition is below the Simplified Acquisition Threshold (SAT). Key SAT thresholds are \$150,000 (general); \$7 million for acquisitions of commercial items; and \$13 million for support of contingency operations or for national defense in the event of nuclear, biological, chemical, or radiation threats.

FAR Part 15 methods are also available any time an existing contract does not address your needs; sealed bidding is not appropriate; and the dollar value exceeds the simplified acquisition amounts. These procedures enable you to select a contractor based on price alone (from among technically acceptable offerors), price and past performance, or any combination of price and non-price (technical, management, etc.) factors.

This course will explore the differences and similarities among FAR Subpart 8.4 and Parts 13 and 15 procedures and their advantages and disadvantages in various situations. It will help you analyze the alternatives as you develop your acquisition strategy. In addition, the course explains how to utilize FAR Part 13 in conjunction with FAR Subpart 8.4 when open market items are needed to complete your overall requirement.

Course Outline

This course has six main topics.

Topic 1: Introduction to the MAS Program

Topic 2: Benefits of the MAS Program

Topic 3: Types of Schedules and Characteristics

Topic 4: Overview of FAR Subpart 8.4, Part 13 and Part 15

Topic 5: Comparing FAR Subpart 8.4, Part 13 and Part 15

Topic 6: Advantages and Restrictions of Each Approach

Course Objectives

Upon completion of this course, you should be able to:

- ❖ Describe the MAS program
- ❖ Describe FAR Subpart 8.4, Part 13 and Part 15 procedures and the role of each in acquisition strategy and planning
- ❖ Recognize the similarities and differences among FAR Subpart 8.4, Part 13, and Part 15 procedures
- ❖ Identify the advantages and restrictions associated with using FAR Subpart 8.4, Part 13, and Part 15



MAS Desk Reference

As you read through this manual, look for these references for more detailed information on a particular subject.



NUTS AND BOLTS TIP

These tips, identified by the icon shown here, are “how-to’s” designed to enhance the student’s learning experience.

Topic 1: Introduction to the MAS Program

What Is a Multiple Award Schedule?

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- ☐ Governmentwide contract vehicle for **commercial** products, services, and solutions
- ☐ Also known as “Federal Supply Schedule (FSS),” “GSA Schedules,” or “MAS”
- ☐ Standing solicitations posted on FedBizOpps
- ☐ Awarded using FAR Part 12 procedures (Commercial Items)

GSA Schedules

The Multiple Award Schedules (MAS) program provides eligible ordering activities with a simplified process for obtaining supplies and services. Schedule contracts are multiple award, indefinite delivery/indefinite quantity (IDIQ) contracts which are awarded to responsible companies that offer commercial supplies or services at fair and reasonable prices.

Products and services are ordered directly from Schedule contractors. There is no requirement to contact GSA in any way prior to ordering products or services from Schedule contractors; however, if questions arise or if the ordering activity is unclear about any step of the process, GSA is always eager to advise and assist. Please visit www.gsa.gov/csd to find your customer service representative.

Multiple Award Schedules are also known colloquially as “GSA numbers,” “GSA Schedules,” “GSA contracts,” “Federal Supply Schedules (FSS),” and the “GSA list.” All of these terms are used synonymously within the Federal contracting community to refer to the GSA MAS program. Through the MAS program, GSA contracts with thousands of commercial businesses that provide access to a vast array of professional services, such as management, financial, engineering, environmental, accounting, graphic design, and landscaping services. In addition to commercial services, commercial supplies range from computer hardware to office supplies.

FSS website: www.gsa.gov/schedules

MAS Contract Characteristics

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- ☐ Multiple Award IDIQ, 5 year award, three 5 year options
- ☐ Fixed Price with Economic Price Adjustment (EPA)
- ☐ Fair and reasonable pricing
 - Price reductions can be requested and may be applied at the order level.
- ☐ Performance requirements established at the order level to meet the customer's specific needs

Quantity and Delivery/Performance Requirements

As IDIQ contracts, the Schedules themselves contain no specific quantities, nor minimum and maximum threshold amounts that are applicable to single orders. The ordering activity is able to set specific order quantities and specific delivery/performance dates when issuing an order under the Schedule contract. When issuing an order:

- ❖ Delivery or performance periods and all other order requirements must conform to the applicable terms and conditions of the Schedule contract, but
- ❖ An ordering activity may add additional terms and conditions as long as they do not conflict with the Schedule contract.

GSA Schedule contracts have a base period of five years, with three additional five-year option periods.

The minimum threshold is an amount under which the contractor is not required to accept an order.

Limits on Order Placement and Timing

Ordering activities issue delivery or task orders against the contract. In accordance with FAR 8.405-1 and 8.405-2, Schedule users:

- ❖ May issue orders for supplies or services not requiring a statement of work (SOW) orally, by fax, by paper order, or electronic commerce methods, depending on the ordering activity's specific ordering procedures
- ❖ May not issue oral orders when an SOW is required. Orders by fax, hard copy, or electronic means are authorized.
- ❖ May not issue oral orders for brand name items when the order exceeds \$25,000
- ❖ May not place repetitive orders for the same items to avoid exceeding the Simplified Acquisition Threshold (SAT) or to avoid utilizing competitive procedures

Orders must be placed during the period that the Schedule contract is in effect. Orders placed during the effective period but *not completed during that period* must be completed within the time specified in the order. However, the "time specified" can be no more than 60 months beyond the Schedule contract's expiration. The Government cannot require the contractor to make deliveries beyond 60 months of the contract's expiration.

Options may be included on orders placed against Schedule contracts and exercised in accordance with FAR 17.207. Options can be exercised provided that:

- ❖ Funds are available.
- ❖ The requirement covered by the option fulfills an existing Government need.
- ❖ Prior to exercising an option, the ordering activity ensures that it is still in the Government's best interest, with price and other factors considered.

Options on orders cannot be exercised beyond the period the Schedule contract is in effect, unless provided for in the contract. This is done by including Schedule contract FAR clause 52.216-22(d):

“Any order issued during the effective period of this contract and not completed within that period shall be completed by the contractor within the time specified in the order.... provided that the contractor shall not be required to make any deliveries under this contract after the completion of customer order, including options, 60 months following the expiration of the basic contract ordering period.”

Negotiating Reductions to Published Schedule Prices

- ❖ Price reductions are permitted (and encouraged) at any time. Vendors may offer reduced prices based on specific quantities, overall volume, delivery requirements, and/or other order-specific terms and conditions.
- ❖ It is **required** that the Government buyer **request** reductions for any requirement (order or BPA) in excess of the SAT.
- ❖ Vendors retain the option of agreeing to any requested price reductions.

Regulatory Foundation

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The Federal Acquisition Regulation (FAR)

FAR	Provides	Applicability
Subpart 8.4	Ordering procedures for GSA Schedules	Federal Government Ordering Activities
Part 12	Acquisition of Commercial Items	GSA awards Schedule contracts under Part 12
6.102(d)(3)	Defines orders placed against Schedules as a competitive procedure	All

The **Federal Acquisition Regulation (FAR)** provides the primary regulatory guidance for the GSA Schedules program. The **General Services Administration Acquisition Regulation (GSAR)** is the GSA FAR supplement. The GSAR provides guidance tailored to GSA acquisitions, including GSA Schedules contracting. GSAR guidance primarily affects GSA Schedules by providing supplementary guidance to the GSA Contracting Officers in awarding and administering GSA Schedule contracts.

FAR Subpart 8.4, Federal Supply Schedules, prescribes procedures that Federal Government ordering activities must follow when issuing orders using GSA Schedules. Orders placed following these procedures are considered to be issued using full and open competition. (See FAR 8.404(a)).

FAR Part 12, Acquisition of Commercial Items, prescribes policies and procedures unique to the acquisition of commercial items. It implements the Federal Government's preference for the acquisition of commercial items contained in Title VIII of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) by establishing acquisition policies more closely resembling those of the commercial marketplace and encouraging the acquisition of commercial items and components.

FAR 6.102(d)(3), Competition Requirements, pertains to the use of competitive procedures. It states that the "use of multiple award schedules (MAS) issued under the procedures established by the Administrator of General Services consistent with the requirements of 41 U.S.C. 259(b)(3)(A) for the MAS program of the General Services Administration is a competitive procedure".

FAR Applicability to Schedules

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FAR	Title	Applicable
Part 13	Simplified Acquisition Procedures	NO (except allows for MAS BPAs)
Part 14	Sealed Bidding	NO
Part 15	Contracting by Negotiation	NO
Part 19	Small Business Programs	NO (except Bundling)
Part 36	Construction and A&E	NO
Part 7	Acquisition Planning	YES
Part 10	Market Research	YES
Subpart 17.5	Interagency Acquisitions	YES
Subpart 33.1	Protests	YES
Subpart 37.6	Performance Based Acquisition	YES
Part 39	Acquisition of Information Technology	YES

The primary regulatory guidance is provided by the **Federal Acquisition Regulation (FAR)**:

- ❖ **FAR Subpart 8.4, Federal Supply Schedules**, prescribes procedures that Federal Government ordering activities **must** follow when issuing orders using GSA Schedules. Awards made following these procedures are considered competitive.
- ❖ The **General Services Acquisition Administration Regulation (GSAR)** is the GSA FAR supplement and is a subset of the General Services Acquisition Manual (GSAM). GSAR provides guidance tailored to GSA acquisitions, including GSA Schedules contracting. GSAR guidance primarily affects GSA Schedules by providing supplementary guidance to the GSA Contracting Officers in awarding and administering GSA Schedule contracts.
- ❖ All GSA Schedule contracts are awarded using FAR Part 12, Commercial Items.

Any agency utilizing GSA Schedules **must** use the procedures described in FAR Subpart 8.4. Some agencies issue supplementary guidance to the FAR. For example, the DoD has the Defense Federal Acquisition Regulation Supplement (DFARS); the Army has the Army Federal Acquisition Regulation Supplement (AFARS) in addition to the DFARS; and NASA has the NASA FAR Supplement (NFS).

Topic 2: Benefits of the MAS Program

FAR Subpart 8.4 Simplifies the Solicitation Process

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In contrast to FAR Part 15 (Contracting by Negotiation), Schedule orders do not require:

- ☐ Conducting a formal “negotiated procurement”
- ☐ Issuing a “solicitation” for thirty days (or any other pre-determined time)
- ☐ Conducting a “competition” by seeking contractors outside the Schedules program
- ☐ Synopsizing the requirement on FedBizOpps, unless it’s a limited sources acquisition over the SAT
- ☐ Conducting “discussions”
- ☐ Conducting formal “debriefings”
- ☐ Using FAR Subpart 15.3 concepts and procedures

FAR Subpart 8.4 provides ordering procedures for placing orders against a GSA Schedule. FAR Part 13, Simplified Acquisition Procedures; Part 15, Contracting by Negotiation; and FAR Part 19, Small Business Programs [except for 19.202-1(e)(1)(iii)] are **NOT** applicable to orders placed against Multiple Award Schedules. FAR Subpart 13.303-2(c)(3), however, allows for BPAs to be established with Multiple Award Schedule contractors, if not inconsistent with the terms of the applicable Schedule contract.

Under FAR Subpart 8.4, as compared with FAR Part 15, ordering activities do **not** have to:

- ❖ Conduct a formal “negotiated procurement”
- ❖ Issue a “solicitation” for thirty days (or any other pre-determined time)
- ❖ Conduct a “competition” by seeking contractors outside the Schedules program
- ❖ Synopsize the requirement on FedBizOpps, unless it’s a limited sources acquisition over the SAT
- ❖ Conduct “discussions”
- ❖ Conduct formal “debriefings”
- ❖ Use FAR Subpart 15.3 concepts and procedures

A Contracting Officer correctly utilizing FAR Subpart 8.4 ordering procedures when placing a GSA Schedule order benefits from the following:

- ❖ There is no requirement to follow the FAR Subpart 15.305 requirement to “evaluate competitive quotes and then assess their relative qualities.” In other words, your evaluation system can immediately **compare** (and remember, we don’t say “compete” because the Competition in Contracting Act (CICA) requirements have already been met) one quote to another in order to determine the rank ordering for selection.
- ❖ You are not bound by the rules in FAR Subpart 15.3 for evaluating past performance, such as the requirement to provide a neutral rating to a quote without any past

performance. Further, if you choose not to use past performance as an evaluation factor, there is no requirement to document the file with your rationale.

- ❖ There is no requirement to capture “the relative strengths, deficiencies, significant weaknesses, and risks supporting quote evaluation...” as required in FAR Subpart 15.305. This means your evaluation system can be very streamlined. There is no requirement to set a competitive range using all the published evaluation factors. This means that you can save yourself and the Schedule contractor considerable time and money by phasing your procurement in a manner that uses the least costly factors to initially eliminate offerors.
- ❖ Because a competitive range is not established, there is no need to be overly focused on the nature of exchanges with the quoter. You can engage in detailed exchanges about any aspect of a quote at any time. Naturally, you should make every effort to treat each quoter equitably. You must not be biased, arbitrary, or capricious, and your decisions must be adequately (but not overly) documented.



NUTS AND BOLTS TIP

If an agency issues a Schedule order using FAR Part 15 terminology and procedures, protest review authorities, such as the GAO and the courts, may sustain a protest against the order using FAR Part 15 procedures.

GSA Schedules Conform with Competitive Contracting

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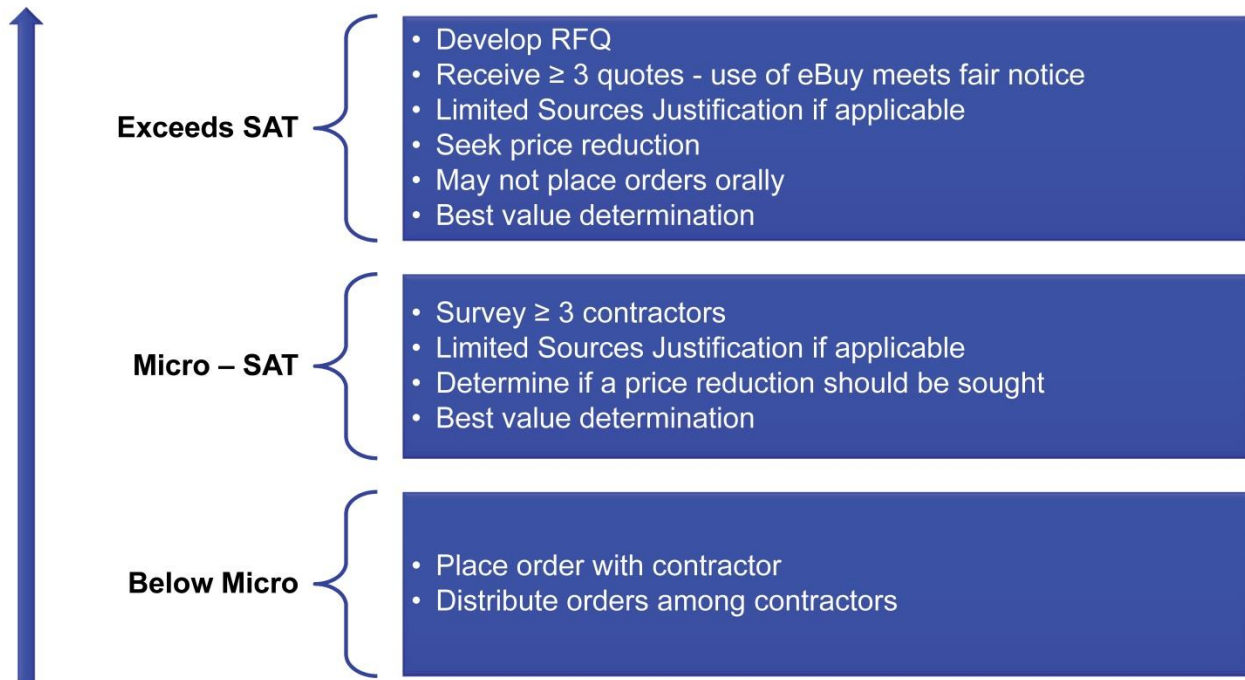
Schedule users shall not:

- ☐ Seek further competition outside of the MAS program
- ☐ Synopsise the requirement

Ordering Procedures – FAR 8.405-1

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When ordering supplies or fixed-price services w/out SOW



When Is an SOW Not Required?

According to FAR 8.405-1, when acquiring fixed-price services or supplies through GSA Schedules, an SOW is not required when the dollar value of the order or Blanket Purchase Agreement (BPA):

- ❖ **Is at or below the micro-purchase threshold (\$3,500).** You may place the order directly with the selected vendor. FAR procedures for acquisitions at or below the micro-purchase threshold emphasize simplicity and fair treatment. Supporting documentation, including extensive information, collection, and evaluation is not required. However, the ordering activity should attempt to distribute orders among Schedule contractors.
- ❖ **Exceeds the micro-purchase threshold, but not the Simplified Acquisition Threshold (\$150,000).** You should obtain at least three quotes (always documenting your contract file) and select the best value quote.
 - Survey at least three Schedule contractors, considering price and other identified best value factors.
 - Consider ordering from contractors that help you meet your agency's socioeconomic goals.

- Use a Request for Quotations (RFQ) only if it is the most efficient method for gathering the information needed to evaluate solutions available under GSA Schedules. When using an RFQ, the ordering activity must provide the RFQ, including the evaluation criteria, to any contractor under the appropriate Schedule that requests a copy.
 - The ordering activity should seek a price reduction when:
 - Market research reveals that the supply or service is available elsewhere at prices lower than those available from Schedule contractors.
 - The Schedule contractor has been or will be selected to provide recurring requirements, and the size of the recurring orders appears to merit a price reduction.
 - Market research identifies other information indicating that a price reduction is appropriate.
- ❖ **Exceeds the Simplified Acquisition Threshold**, or when establishing a BPA. The ordering activity shall seek a price reduction, survey more than three contractors, and select the best value quote. If further price reductions are not offered, an order may still be placed. *eBuy* shall be used as one method to ensure at least three written quotations are received. If fewer than three are received, the Contracting Officer must document the file as to the actions taken to ensure competitive quotations, and what can be done in future acquisitions to enhance competition. New procedures also apply for DoD agencies when the value of the order exceeds the simplified acquisition threshold (\$150,000) and only one quote was received (DFARS 208.404 and 208.405–70). If fewer than 30 days for quote submission was allowed, the Contracting Officer must consider promoting competition by revising the requirements document (e.g., SOW) to eliminate any barriers to competition and by permitting more time for receipt of quotes when fewer than 30 days was initially allowed. The Contracting Officer must either 1) solicit for an additional 30 days, or 2) request a waiver. If the Contracting Officer still receives only one quote, he/she must determine prices to be fair and reasonable through price/cost analysis and negotiations with the GSA Schedule contractor.



NUTS AND BOLTS TIP

Schedule contractors are not required to offer all GSA ordering activities a price reduction, even if they have provided such spot discounts to another buying activity.



NUTS AND BOLTS TIP

FAR 9.405-1(b) prohibits ordering from any Schedule contractor that is debarred, suspended, or proposed for debarment unless the agency head makes a written determination of the compelling reasons for such action.

A Schedule ordering activity can review the contractor's information page in GSA *eLibrary* (www.gsaelibrary.gsa.gov) to determine whether the prospective contractor is listed in the Excluded Parties List System (EPLS). The System for Award Management (SAM) at www.sam.gov provides information about debarment or suspension, along with more detailed information about a contractor.

Ordering Procedures - FAR 8.405-2

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When ordering services requiring an SOW



When Is an SOW Required?

For services offered in Schedule contracts at hourly rates, the ordering activity must develop Requests for Quotations (RFQs) and include the Statement of Work (SOW) and evaluation criteria to Schedule contractors who offer services that will meet the agency's needs. The SOW and RFQ requirements differ by dollar value. The RFQ may be posted through *eBuy*.

If an order requires an SOW, the first step in the award decision process is to review the quotes. The price quote review focuses on the quality of the vendor's capabilities or products, the proposed solution, the prices, and any other pre-determined evaluation criteria.

If a Statement of Work (SOW), Performance Work Statement (PWS) or Statement of Objectives (SOO) is not required, the first step is to compare prices from appropriate Schedule contractors.

If the order requires an SOW/PWS/SOO, the ordering activity has the option to ask quoters to give oral presentations in lieu of some or all of the written quote submission requirements. The oral presentations can help the ordering activity clarify details, become acquainted with the contractors' personnel, and provide additional comparison points for decision making.

After comparing prices and other factors, the ordering activity chooses the contractor who can provide the best value to the Government.

Topic 3: Types of Schedules and Characteristics

MAS Schedule Facts

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- ❑ GSA offers over 40 million supplies and services
- ❑ 23 open and standing solicitations published on FedBizOpps, including those managed by the Department of Veteran's Affairs (VA)
- ❑ Over 19,000 Schedule contracts
 - 80% are small businesses
 - Orders and BPAs can be set aside for small businesses
- ❑ \$33.4B MAS + \$13.8B VA = \$47.2B Total Sales (Spend)

GSA Schedules provide access to over 40 million commercial supplies (products) and services at volume discount pricing. *GSA eLibrary* contains a list of all GSA and VA Schedules. The generic categories of supplies and services available under each Schedule may be viewed by clicking on the Schedule number in the Source column. Supplies and services are identified in each Schedule by Special Item Number (SIN).

Special Item Numbers (SINs)

Within each Schedule are specific SINs, groups of similar (but not identical) supplies or services that are intended to meet similar customer requirements. SINs are also known as categories.

Each Schedule is comprised of multiple SINs. For example, Schedule 874, Mission Oriented Business Integrated Services (MOBIS)/Business Consulting Solutions, has the following SINs:

- ❖ 874 1 - Integrated Consulting Services
- ❖ 874 4 - Training Services
- ❖ 874 6 - Acquisition Management Support
- ❖ 874 7 - Integrated Business Program Support Services
- ❖ 874 8 - DAU and FAI Certified DAWIA and FAC Acquisition Workforce Training
- ❖ 874 9 - Off-the-Shelf Training Devices and Training Materials

GSA Schedules are awarded on an indefinite delivery/indefinite quantity (IDIQ) basis. The total quantity of services or supplies that will be acquired under the Schedule contract and the specific time for delivery of those items are not set in the contract. Schedule solicitations include only an estimate of total Schedule acquisition sales for each SIN.

The quantity and names of Schedules and SINs change from time to time. GSA *eLibrary* (www.gsaelibrary.gsa.gov) provides a current listing of all Schedule contracts and links to additional information about each Schedule.

What Services Are Available on Schedule?

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- | | |
|---|---|
| <input type="checkbox"/> Energy Services | <input type="checkbox"/> Professional Services |
| <input type="checkbox"/> Environmental Services | <input type="checkbox"/> Security and Law Enforcement |
| <input type="checkbox"/> Facility Management Services | <input type="checkbox"/> Technology Services |
| <input type="checkbox"/> Furniture Services | <input type="checkbox"/> Transportation Services |
| <input type="checkbox"/> Human Capital Services | <input type="checkbox"/> Travel Services |
| <input type="checkbox"/> Office Services | <input type="checkbox"/> Vehicle Buy/Lease Services |

Note: For a comprehensive list of services, please visit GSA eLibrary. www.gsaelibrary.gsa.gov

GSA Schedule Contract Fundamentals

Solicitations for GSA Schedule contracts are “standing solicitations” issued through FedBizOpps. Vendors wishing to become GSA Schedule contractors may submit an offer anytime. More information on Schedule solicitations may be found at <https://www.gsa.gov/acquisition/purchasing-programs/gsa-schedules/industry-partners/gsa-schedule-solicitations>.

GSA Schedule contracts have a base period of five years, with three additional five-year option periods. Options are exercised in accordance with FAR 17.207.

Ordering activities issue delivery or task orders against the GSA Schedule contract. For services, the task orders specify the scope, milestones, timeframe, and price for the requirements. Options may be included on orders placed against Schedule contracts, and options may be exercised, provided that:

- ❖ Funds are available.
- ❖ The requirement covered by the option fulfills an existing Government need.
- ❖ Prior to exercising an option, the ordering activity ensures that it is still in the Government’s best interest, with price and other factors considered.
- ❖ The options do not extend beyond the period of the Schedule contract, including option year periods.

Acquisition of Commercial Services

FAR 11.002(a)(2)(iii) requires that, to the maximum extent practicable, offerors of commercial items be provided an opportunity to compete for any Government contract acquisition. If the use of commercial services is precluded, purchasers may lose the benefits of commercial item innovations. Failure to define a service requirement as a commercial item will also prevent purchasers from using Schedule contracts and participating in the related benefits.

Purchasers should describe service requirements in a way that permits sellers providing commercial services to compete. Preferably, a performance-based approach should be used, in accordance with FAR Subpart 37.6, so that results sought, rather than how the work should be done, are stated.

What Supplies Are Available on Schedule?

(slide)

- | | |
|---|--|
| <input type="checkbox"/> Building & Industrial | <input type="checkbox"/> Disaster Relief Products |
| <input type="checkbox"/> Furniture and Furnishings | <input type="checkbox"/> Hospitality, Cleaning & Chemicals |
| <input type="checkbox"/> IT Electronics | <input type="checkbox"/> Laboratory, Scientific & Medical |
| <input type="checkbox"/> Law Enforcement, Fire, and Security Products | <input type="checkbox"/> Office Solutions |
| <input type="checkbox"/> Recreation & Apparel | <input type="checkbox"/> Security Solutions |
| <input type="checkbox"/> Travel & Transportation Supplies | <input type="checkbox"/> Tools, Hardware & Machinery |
| <input type="checkbox"/> Wildland & Fire Equipment | <input type="checkbox"/> Vehicles & Watercraft |

Note: For a comprehensive list of supplies, please visit GSA eLibrary. www.gsaelibrary.gsa.gov

Commercial Items and MAS

The FAR definition of “commercial items,” as found at FAR Subpart 2.101(b), includes both supplies/commodities and services. It is very broad and encompassing and includes all of the following types of items as commercial items:

Nongovernmental items: A supply of a type customarily used by the general public or by nongovernmental entities for other than governmental purposes and has been sold, leased, or licensed to the general public; or has been offered for sale, lease, or license to the general public.

Evolved nongovernmental items: A nongovernmental item that:

- ❖ Evolved from an item customarily used for nongovernmental purposes through advances in technology or performance; and
- ❖ Will be available in the commercial marketplace in time to satisfy the delivery requirements under a solicitation.

Modified versions of either of these item types: An item that would be considered a nongovernmental item or an evolved nongovernmental item if it were not for one of the following:

- ❖ Modifications of a type customarily available in the commercial marketplace
- ❖ Minor modifications of a type not customarily available in the commercial marketplace that must be made to meet Federal Government requirements

A minor modification does not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors

to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final item. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor.

Topic 4: Overview of FAR Subpart 8.4, Part 13, and Part 15

An Overview of the Parts

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FAR Subpart 8.4, Part 13, and Part 15 provide alternative means for getting your requirements on contract:

FAR Subpart 8.4	FAR Part 13	FAR Part 15
Federal Supply Schedules	Simplified Acquisition Procedures	Contracting by Negotiation
Procedures for placing orders against Multiple Award Schedules awarded by GSA and the VA	Procedures for open market acquisitions not exceeding the Simplified Acquisition Threshold (\$150,000) (\$7 million for commercial items– see FAR Subpart 13.5)	Procedures for open market acquisitions exceeding the Simplified Acquisition Threshold

Construction and Architect-Engineer services must be procured in accordance with FAR Part 36.

These approaches are among the tools in your toolkit; they have similarities and differences, and this class will give you the information you need to decide which approach to take.

Neither MAS nor the procedures in FAR Part 15 can be used for Architect-Engineer services (see FAR Subpart 8.403(c)). When Architect-Engineer services are required, FAR Subpart 36.6 procedures must be used.

The simplified acquisition procedures found in FAR Part 13 are used when the dollar value of an action is between the micro-purchase threshold of \$3,500 and the Simplified Acquisition Threshold of \$150,000 and it is determined that the use of GSA Schedules is not appropriate for that particular action. FAR Subpart 13.5 authorizes agencies to use simplified acquisition procedures for commercial items up to \$7 million for certain commercial items.

The Micro-Purchase Threshold and SAT

Under FAR Subpart 8.4, below the micro-purchase threshold (\$3,500), you can select any MAS vendor.

When the order exceeds the micro-purchase threshold but is less than the Simplified Acquisition Threshold (\$150,000) and a Statement of Work (SOW) is not required or you are buying supplies, you should consider at least three Schedule contractors. You can do this by searching GSA *Advantage!*® online shopping service; reviewing the catalogs or price lists of at least three

Schedule contractors; or requesting quotations from at least three Schedule contractors. When you are buying services that require an SOW, prepare an RFQ with evaluation criteria and solicit at least three MAS contractors.

When the order exceeds the SAT, post the RFQ on *eBuy* to afford all Schedule contractors offering the required supplies or services under the appropriate MAS an opportunity to submit a quote; or provide the RFQ to as many Schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that quotes will be received from at least three contractors that can fulfill the requirements.

What Is FAR Subpart 8.4?

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FAR Subpart 8.4 addresses ordering from Multiple Award Schedules (MAS), specifically:

- ☐ Use of Federal Supply Schedules
- ☐ Ordering procedures
 - Blanket Purchase Agreements (BPAs)
 - Price reductions
 - Limiting sources
- ☐ Ordering activity responsibilities

The MAS program provides a streamlined way to acquire many supplies and services. It is a governmentwide program centrally managed by GSA in order to procure **commercial** supplies and services that are commonly used throughout the Government. The program uses indefinite delivery/indefinite quantity (IDIQ) contracts. Delivery orders are placed against MAS contracts for supplies; task orders are placed for services.

Orders for supplies and services not requiring an SOW are placed based upon pricing information from sources such as GSA *Advantage!*®, contractors' price lists, or contractors' responses to Requests for Quotation (RFQ). Orders for services requiring an SOW are based on contractors' responses to SOWs issued as part of an RFQ.

If you will need a series of orders for the same supplies or services, establishing one or more Blanket Purchase Agreements (BPAs) against a Schedule may be a feasible approach. BPAs based on MAS contracts use the procedures in FAR 8.405-3, in contrast to open market BPAs, which are negotiated under FAR Part 13 (if the dollar value is under the SAP thresholds).

Once the Schedule contract under which the BPA was established expires, the BPA automatically expires, and no new orders can be placed against it. A BPA that extends beyond the current term of its underlying GSA Schedule contract may be established, provided there are option periods in its GSA Schedule contract that, if exercised, cover the BPA's period of performance.

Any order (including order options) issued against an existing BPA before the BPA expires will have its own period of performance. The order, including order options, must be completed within 60 months following the expiration of the basic contract ordering period.

Fair Opportunity

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- ❑ Fair Opportunity is a basic element of any Multiple Award contract, including those under FAR Subpart 8.4.
 - Required when the value of a procurement exceeds the SAT
- ❑ Fair Opportunity means providing offerors under Multiple Award contracts with fair notice of task/delivery order RFQs and an opportunity to respond to them
- ❑ Fair Opportunity requires:
 - RFQ posted on *eBuy* to afford all Schedule contractors under the appropriate Special Item Number an opportunity to submit a quote, **OR**
 - Provide RFQ to as many Schedule contractors as practicable to reasonably ensure at least three quotes will be received

Fair Opportunity was introduced in the Federal Acquisition Streamlining Act (FASA) of 1994. It was further implemented in Section 803 of the National Defense Authorization Act for Fiscal Year 2002 and subsequently in section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417).

Unlike the seven exceptions provided by FAR 6.302 for use under FAR Part 15, there are only three exceptions from fair opportunity requirements available under FAR Subpart 8.4:

- ❖ Urgent and compelling need; competing would create an unacceptable delay
- ❖ Only one source is capable of providing; supplies or services are unique or highly specialized
- ❖ Logical follow-on to a fully competitive order

Note that the “logical follow-on” exception is available only once; and the existing order must not have been awarded under sole-source or limited-sources procedures.

What Is FAR Part 13?

(slide)

- ☐ Simplified acquisition procedures used for acquisitions below the SAT
- ☐ Solicitation may be an oral or written RFQ
- ☐ Results in issuance of a Purchase Order, Government Purchase Card (GPC) transaction, or Blanket Purchase Agreement (BPA)
- ☐ Procedures are simple/straightforward.
 - May use lowest price technically acceptable or tradeoff source selection
- ☐ Keeps contract terms and conditions to a minimum
- ☐ Items and services to be acquired are “open market”.
 - i.e., not available from required sources of supply, such as MAS contracts, outlined in FAR Subpart 8.002
- ☐ Reserved for small business (under the SAT)

The goals of these procedures are to:

- a) Reduce administrative costs;
- b) Improve opportunities for small businesses to obtain a fair share of Federal contracts;
- c) Promote efficiency and economy in contracting; and
- d) Avoid unnecessary burdens for agencies and contractors.

In short, simplified acquisition procedures provide a streamlined way for agencies to acquire lower dollar value services and products.

What Is FAR Part 15?

(slide)

- ☐ Negotiated procurements
 - Solicitation is a Request for Quote (RFQ)
 - Results in stand-alone contracts, either single or multiple awards
 - Used when sealed bidding is not suitable
- ☐ Contains rules for source selection, including cost/technical tradeoffs
- ☐ Pricing rules and procedures

Negotiated Procurements

FAR Part 15 is for use when a stand-alone contract is needed and sealed bid procedures are inappropriate. This means when:

- ❖ The value of the order is over the simplified acquisition threshold (otherwise Part 13 applies).
- ❖ Development is involved, or goods or services are otherwise unavailable through existing contracts, including MAS.
- ❖ One or more of the following applies:
 - Factors other than price are to be considered.
 - Discussions will be necessary.
 - Specifications are inadequate for sealed bidding.

“Best value continuum” (see FAR 15.101) refers to the importance of price in the best value decision. It means that in some cases (e.g., where there is a complete specification and little risk of unsuccessful performance), price or cost will be the major determining factor for award. When there is greater risk or innovative approaches to the work are needed, other factors, including past performance and technical capability, assume a greater importance. The best value continuum ranges from the lowest price, technically acceptable to higher price, technically superior using the tradeoff process.

The process for sealed bidding using an Invitation for Bids (IFB) is described in FAR Part 14. IFBs shall be used when the conditions listed below are met, per FAR 6.401.

- (a) Contracting officers shall solicit sealed bids if—
- (1) Time permits the solicitation, submission, and evaluation of sealed bids;
 - (2) The award will be made on the basis of price and other price-related factors;
 - (3) It is not necessary to conduct discussions with the responding offerors about their bids; and
 - (4) There is a reasonable expectation of receiving more than one sealed bid.

(b) Competitive quotes. (See Part 15 for procedures.)

(1) Contracting officers may request competitive quotes if sealed bids are not appropriate under paragraph (a) of this section.

(2) Because of differences in areas such as law, regulations and business practices, it is generally necessary to conduct discussions with offerors relative to proposed contracts to be made and performed outside the United States and its outlying areas. Competitive quotes will, therefore, be used for these contracts unless discussions are not required and the use of sealed bids is otherwise appropriate.

Pricing Rules and Procedures

Price is considered in every award; FAR Subpart 15.4 describes requirements and procedures for cost and price analysis in negotiated procurements. For a cost type contract, it is likely that cost analysis will be required; for a complex requirement, an experienced cost/price analyst will be a great help.

When a Request for Quotes is issued, quotes received are bona fide offers from the contractors; these may be accepted by the Government and are binding to the contractor.

Which Method Should I Use?

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FAR Subpart 8.4	FAR Part 13	FAR Part 15
Requirement is for commercial products and services being solicited through the MAS Program	Requirement is open market under the SAT	Requirement is open market over the SAT
Sufficient numbers and quality of sources	Requirements for specialized goods and/or services that cannot be filled from MAS offerings (or other pre-established contracts)	Requirements for specialized goods and/or services that cannot be filled from MAS offerings (or other pre-established contracts)
Terms and conditions and allowable order types meet agency needs	Reserved for small business set-asides	When a cost-type or incentive contract is necessary

Your specific requirement and market research will drive the decision as to whether to use the MAS program. Generally, if your need is for commercial products and services used by the Government, it most likely is available from the GSA MAS program. If it is available, it probably is to your benefit to utilize GSA MAS. The use of the MAS program is particularly beneficial when time is of the essence.

Review the terms and conditions of the contracts, and determine the appropriate contract type. For most needs, MAS orders can be priced on a firm fixed-price basis. However, for support and other types of services for which the exact level of support is unknown, time and materials (T&M) or labor hour (LH) type orders may be appropriate in these cases.

In addition, GSA authorized a FAR Part 51 deviation that expands the authority of contractors to utilize GSA supply sources including MAS. Previously, only contractors performing cost reimbursement contracts were authorized to use GSA sources. Now Federal Government Contracting Officers are authorized to give all GSA contractors access to the MAS program when deemed appropriate for fulfillment of their agency requirements. This authority is limited to contracts/orders:

- ❖ Placed on a time-and-materials (T&M)/labor hour (LH) basis — a contract awarded or an order placed by the Federal Government to the buying contractor can be partially fixed-price, but the portion of the contract/order for the items to be procured using the FAR 51 deviation must be T&M/LH;

- ❖ For ancillary supplies/services that are in support of the overall contract/order such that the items are not the primary purpose of the work ordered, but are an integral part of the total solution offered;
- ❖ Issued in accordance with the procedures in FAR 8.405-1, Ordering Procedures for supplies and services not requiring a statement of work (applicable only to orders placed against Schedule contracts); and
- ❖ Placed by the Federal Government. The authorization is NOT available to state and local governments.

Simplified acquisition procedures are used for acquiring goods and services not available under GSA MAS, such as construction, research and development (R&D), and specialized training. This also includes most non-commercial services and specialized products.

Simplified acquisition procedures are used in situations when agencies need to award their own contracts using FAR Parts 14 and 15 procedures; however, FAR Part 13 allows a much more streamlined process when the procurement is valued at less than \$150,000.

Topic 5: Comparing FAR Subpart 8.4, FAR Part 13, and FAR Part 15

Acquisition Planning - FAR Part 7

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- ☐ Acquisition planning is required, regardless of chosen strategy, over the SAT:
 - Planning required for all acquisitions, but under FAR Part 13, formal planning requirements are limited to economic purchase quantities (FAR 7.202)
 - Written planning and coordination required based on dollar amount, contract type and complexity, competition strategy (agency procedures)
- ☐ Market research will drive planning decisions; acquisition plans capture this information.
- ☐ Performance-based preference for services

Planning

Based on the procedures and thresholds established by your agency, you will need to conduct acquisition planning, regardless of whether you use the MAS contracts or award a purchase order using FAR Part 13. While a formal written plan may not be required, planning is always essential. Your acquisition file should also contain notes on the essential aspects of planning, including a rationale for choosing FAR Part 13 rather than FAR Subpart 8.4 as the acquisition approach, if it's not self-evident.

Providing for Full and Open Competition

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Procedure	Subpart 8.4	Part 13	Part 15
May compete on LPTA or trade-off	Yes	Yes	Yes
Pre-competed Schedules with fair and reasonable pricing	Yes		
“Fair Opportunity” required; Limited Sources Justification (LSJ) otherwise, if over the SAT	Yes	Competition may be limited if urgent, exclusive license agreement, brand name, or industrial mobilization. CO must prepare a memo for the file. (See FAR Part 6)	Full and open competition; Justification for Other than Full and Open Competition (JOFOC) or (J&A) (See FAR Part 6)
Commercial item products and services	Yes. Commercial only.	Yes. In addition, Construction projects in excess of \$2000 require a written solicitation	Yes, as well as all other non-commercial supplies and services

When the acquisition value is below the micro-purchase threshold (\$3,500), you are free to go to any source. When the acquisition value exceeds \$3,500 up to the SAT (\$150,000), you should solicit responses from three sources. Orders under MAS contracts or negotiated procurements may achieve competition based on Low Priced, Technically Acceptable (LPTA) or the tradeoff method.

If you elect tradeoffs, it's important to use only a limited number of key factors and avoid the use of subfactors, especially with FAR Part 13. Also when using simplified acquisition procedures, the tradeoff method can be as straightforward as technical (capability of the item offered to meet the agency intended need as conveyed in the solicitation), price, and/or past performance.

While the MAS contracts are already considered competitive, procedures recently incorporated into the FAR enhance the fair opportunity requirements, particularly for requirements over the SAT.

Both FAR Subpart 8.4 and Part 15 require justifications when limiting competition.

The Competition in Contracting Act (CICA), effective as of April 1, 1984, is applicable to FAR Part 15 contracts; however, CICA requirements are met by GSA at the Schedule level when orders are placed in accordance with FAR Subpart 8.4 procedures.

Solicitation Procedures

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Procedure	FAR Subpart 8.4	FAR Part 13	FAR Part 15
Prepare a solicitation	Request for Quote (RFQ) (No minimum notice requirements – <i>eBuy</i> requires 48 hour min)	RFQ when over \$25,000. FedBizOpps notice required	Request for Quotes with all required T&Cs (30 day notice)
May require consideration of factors other than price/costs – identify factors	Yes	May utilize factors other than price, but typically is “low price technically acceptable”	Yes
Prepare source selection plan	May be used, but not required	May be used	Yes
Establish evaluation criteria	Yes	Yes	Yes
Best value determination	Yes	Yes	Yes
Solicit sources	If over SAT, solicit sufficient sources to anticipate at least 3 quotes or use <i>eBuy</i> ; no synopsis in FedBizOpps	CO must promote competition and attempt to solicit at least 3 quotes when over the micro-purchase threshold	Synopsis in FedBizOpps and provide to all interested firms; over \$25K IAW FAR Part 5

FAR Subpart 8.4

Under FAR Subpart 8.4, all quotes must be fairly considered; however, the more stringent requirements for, for example, meaningful discussions and allowing companies to revise their proposals to address identified weaknesses do not apply to FAR Subpart 8.4 acquisitions. Using these procedures could subject the ordering activity to a protest since they would be applying a FAR Part 15 requirement to the acquisition. GAO decisions and other case law states that they will look at the overall process an ordering activity utilizes in conducting the procurement and apply the corresponding procedures in reviewing/deciding protests.

Instead of using a detailed evaluation, compare prices and terms, evaluate the level of effort and labor mix proposed if applicable, and as part of the solicitation, request any additional discounts the company can offer.

FAR Part 13

A key thing to keep in mind is when FAR Part 13 procedures are used to buy open market items (non-MAS items required to satisfy the full overall requirement), you need to add appropriate clauses/provisions of FAR Part 13 for the open market items (just like you would with a stand-alone open market order). In essence, you are combining an open market buy with MAS on the same order. In addition, you must also comply with all FAR Parts 5, 6, and 13 requirements for publicizing and competition.

FAR Part 15

In addition to the different solicitation formats, it is important to remember that the procedures of FAR Subpart 8.4 are not set up for complex negotiations; in those cases, FAR Part 15 may be better suited for use.

Under FAR Part 15, you can reserve the option (using a solicitation provision) to award without discussions, but the door is left open for discussions if they are needed. A competitive range is established before discussions, and once discussions begin, they must be meaningful (i.e., must address significant weaknesses, deficiencies, and any adverse past performance information to which the offeror has not had an opportunity to respond). The rules, which are complex, are detailed in FAR 15.306.

Under FAR Part 15, if two or more small businesses are capable of performing the requirement, it should be set-aside. If the acquisition is currently being conducted under the 8(a) program, it normally remains 8(a). Your organization's Small and Disadvantaged Business Utilization Specialist (SDBUS) will coordinate during acquisition planning and may propose additional sources.

Under FAR Part 15, 8(a) contracts can be awarded on a sole source basis for an 8(a) source when the value is less than threshold levels (\$4 million for services and \$7 million for manufacturing). However, special rules apply with Native American-owned businesses. There are also requirements for considering small/small disadvantaged business participation in subcontracting.

Awards to small businesses or small disadvantaged businesses count toward agency goals.

Criteria

Under both procedures, the criteria for award must be clearly stated, and the Contracting Office must follow through on the criteria and procedures as stated in the solicitation. If any material changes are made after the solicitation is issued, an amendment to the solicitation must be issued, with offerors or quoters given an opportunity to respond.

Evaluation Procedures

(slide)

Procedure	FAR Subpart 8.4	FAR Part 13	FAR Part 15
Evaluate consistent with solicitation	Yes	Yes	Yes
Small Business set-asides	Discretionary	Reserved for small business under the SAT	Available – “rule-of-two”
Technical evaluation	May utilize LPTA or tradeoff for more complex purchases	May utilize LPTA or tradeoff for more complex purchases	May utilize LPTA or tradeoff for more complex purchases
Evaluation and source selection documentation	Yes	Yes	Yes
Ensure vendor’s quote complies with all special terms and conditions of RFQ	Yes, but may not conflict with Schedule contract terms and conditions	Yes	Yes
Treat all offerors fairly	Yes	Yes	Yes
Debriefings available upon request	May provide feedback—no specific format specified	Yes—provide basis for award decision	Yes—provide debriefing

Evaluation and Award

You need to ensure the vendor’s open market part of the quote and associated process you followed complies with FAR Parts 5, 6 and 16 for publicizing and competition.

Evaluations must always include price, but should be a simpler matter in a FAR Subpart 8.4 acquisition than in one under FAR Part 15. Under FAR Subpart 8.4, a task or delivery order (or BPA) is awarded using the terms and conditions of the basic MAS contract. Under FAR Part 15, a stand-alone contract is awarded; this has its own terms and conditions in accordance with the FAR and agency regulations.

In both procedures, the decisions made in the planning process should be reflected in the solicitation, and evaluation must be in accordance with the solicitation. In both procedures, the

basic rules of impartiality and protection of proprietary information apply. Both procedures allow for clarifications and exchanges (although there are differences, which we will discuss shortly).

Unlike multiple award task orders under FAR Subpart 16.5, there are no restrictions on protests with FAR Subpart 8.4 orders. This means that you will still need to document the file carefully and be prepared to explain the logic of your decisions.

Management/Administration

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Procedure	FAR Subpart 8.4	FAR Part 13	FAR Part 15
Monitoring of performance - commercial items (usually simple inspection & acceptance)	Yes	Yes	Yes
Monitoring of performance – complex services even though commercial	Yes, appoint Contracting Officer's Representative (COR), especially for higher dollar value and long duration	Usually not required due to the limited dollar value under SAT and short duration	Appoint COR; may require use of monitoring tools/techniques including PM, EVM, etc.
Delivery and invoicing in accordance with contractual agreement	Yes	Yes	Yes
Application of the Prompt Payment Act	Yes	Yes	Yes
Order close-out	Yes	Yes	Yes

A Contracting Officer's Representative (COR) should be appointed for FAR Subpart 8.4 orders, especially when you acquire complex services of higher dollar value and long duration. Appoint a COR using criteria similar to what you would use if you were following FAR Part 15 requirements.

Regardless of the type of contract vehicle used, the Contracting Officer needs to consider how to determine if the product or service is acceptable, who will make that determination, and how the contractor will be informed of any necessary corrections.

For anything more complex than an order for commercial products that can be simply inspected for compliance, it is advisable to develop a plan for contract monitoring, appoint personnel to do the monitoring, and establish a schedule for inspecting deliverables and requesting corrections. For a performance-based order or contract, that plan will be the Quality Assurance Surveillance Plan (QASP). This details the performance standards against which the contractor will be measured, how frequently, and how sub-standard performance will be handled.

Delivery, invoicing, and payment will be governed by the basic contract as well as, in the case of a FAR Subpart 8.4 order, the task or delivery order. A FAR Part 15 contract needs to specify everything within the contract itself. Both orders and contracts are subject to the Prompt Payment Act.

Major Differences – FAR Subpart 8.4 vs. Part 13

(slide)

There are several similarities between FAR Subpart 8.4 and Part 13.

The major differences are in the way you:

- ☐ Plan the acquisition
 - Set-asides (discretionary vs. mandatory)
- ☐ Develop and issue an RFQ, including dollar thresholds
- ☐ Evaluate a quotation under FAR Part 13
- ☐ Acquire non-commercial items

For acquisition planning, FAR Subpart 8.4 requires an acquisition plan if the total price will exceed the SAT. Since FAR Part 13 orders cannot exceed the SAT, formal acquisition planning is not required, though documentation requirements are at the agency's discretion. Agencies must also consider economic purchase quantities per FAR 7.202.

Publication requirements differ:

- ❖ FAR Subpart 8.4 uses *eBuy* to notify Schedule contractors.
- ❖ FAR Part 13 uses FedBizOpps for requirements over \$25,000.

FAR Subpart 8.4 requires development and issuance of an RFQ:

- ❖ If the order includes a statement of work (SOW), or
- ❖ If the order exceeds the SAT (with or without an SOW)

Orders issued under a Schedule contract must comply with all the statutes included in the Schedule contract; FAR Part 13 orders are exempt from many clauses and statutes. Written RFQs under FAR Part 13 are recommended for actions exceeding \$25,000; oral solicitations are preferred under that amount, if no synopsis is required. Construction projects in excess of \$2000 under FAR Part 13 require a written solicitation.

Publication Requirements:

- ❖ FAR Subpart 8.4. Must be published on FedBizOpps if it's a limited sources requirement over the SAT, or a brand name requirement at any amount; FAR Subpart 8.4 requirements, as necessary, are posted to GSA's *eBuy* system.
- ❖ FAR Part 13. Requirements over \$25,000 are published at FedBizOpps, which allows for a combined synopsis/solicitation when acquiring commercial items.

Consideration of a Quotation

Under FAR Part 13, a quotation is not an "offer" and cannot be accepted to form a binding contract. Issuance of an order by the Government does not establish a contract under Part 13:

- ❖ The order is an "offer" to the contractor.

- ❖ A binding contract is formed when the supplier accepts the offer (i.e., order) by beginning performance.

In some cases, the Government may choose to set up their Simplified Acquisition Procedures/FAR 13 RFQ to have offerors submit offers that are accepted by the Government.

Under FAR Subpart 8.4, a quotation **does** serve as an “offer,” and issuance of an order or BPA establishes a binding contract.

Acquiring Non-Commercial Items

Per FAR Subpart 8.402(f), items not on Schedules can be acquired as “open market” items, as long as the conditions in that section have been met. These items do not have to be commercial items, but all applicable terms and conditions must be included in the Schedule order. **Items must be clearly labeled as “open market” items.**

FAR Part 13 allows the acquisition of non-commercial items. Orders up to the SAT may include commercial and non-commercial items, as may BPAs. BPA ceilings issued under FAR 13 do not have to be below the SAT, although individual orders placed under them do.

Major Differences – FAR Subpart 8.4 vs. FAR Part 15

(slide)

There are several differences between FAR Subpart 8.4 and Part 15.

The major differences are in the way you:

- ☐ Publicize requirements
- ☐ Compete requirements (FedBizOpps vs. *eBuy*)
- ☐ Document the file
 - Subcontracting Plans
 - Representations and Certifications
 - Determination of Responsibility
- ☐ Evaluate and award the contract

Key Points on Solicitations

(slide)

FAR Subpart 8.4 (above the SAT)	FAR Part 15
Issue a Request for Quotations (RFQ) – give vendors appropriate time to respond	Issue a Request for Quotes – offerors have 30 (or more) days to submit a quote
May seek clarifications and have communications with Schedule contractors	Discussions allowed; may establish competitive range
Evaluate in accordance with RFQ	Evaluate in accordance with RFP
Request a price reduction off Schedule price	Negotiate cost or price
FAR Part 19 does not apply; discretionary set-asides allowed under FAR 8.405-5	“Rule of two” requires a set-aside per FAR 19.502-2(b)
Agencies may consider socioeconomic status as an evaluation factor	All small business program options are available for use
No subcontracting plan required at task/delivery order level	Small business subcontracting plan is required for large business if over \$700,000

SOW vs. No SOW

Unlike FAR Part 15 procedures, FAR Subpart 8.4 provides different procedures, depending on whether or not an SOW is needed.

Since the MAS includes price lists for awarded products and labor rates, an SOW may not be needed if the requirement for products and/or services is already completely priced and is below the SAT in value. The differences in treatment show up mainly between the micro-purchase threshold and the SAT. Since prices are already established, the ordering activity may be able to use GSA *Advantage!*® to survey the prices and determine the best value without issuing a solicitation.

Over the SAT, with or without an SOW, the Contracting Officer must request a price reduction. The Contracting Officer must issue an RFQ and provide any contractors with a reasonable amount of time to prepare a response. When utilizing FAR Part 15, a Request for Quotes is issued and posted on FedBizOpps for a minimum of 30 days. This allows the contractors a minimum of 30 days to prepare a response, although some quotes can take months to prepare.

Note: The maximum order threshold specified in the contract is no longer used to determine ordering procedures; levels at which procedures change are the micro-purchase threshold and the SAT only.

Discussions and clarifications should be kept to a minimum under FAR Subpart 8.4; however, should they be necessary under FAR Part 15, formalized rules apply, including the need to establish a competitive range prior to holding discussions, to make offerors aware of

weaknesses and any deficiencies as well as adverse past performance information, and to establish a common cutoff date for receipt of quote revisions, including any revisions to negotiated cost/price. When the solicitation value exceeds the SAT, MAS contractors should be requested to provide a price reduction.

Regardless of which acquisition method is used, responses of the offerors/quoters must be evaluated consistent with the stated solicitation requirements.

Key Points on Evaluation and Award

(slide)

FAR Subpart 8.4	FAR Part 15
Contractor Team Arrangements (CTAs) allowed (Not IAW FAR Subpart 9.6)	Joint Ventures allowed
Simplified evaluation – Evaluation Team	Formal SSEB
Award a task or delivery order	Award one or more stand-alone contracts
Terms and conditions of the Schedule contract apply	Terms and conditions must be included in the contract
Feedback	Debriefings

FAR Subpart 8.4 does not cover Contractor Team Arrangements (CTA), but they are described on the GSA website as an arrangement that is available to allow contractors to work together to offer the Government a complete solution. Details of CTAs are beyond the scope of this module; we cover it in a separate course.

Evaluations must always include price, but evaluations should be simpler matters in FAR Subpart 8.4 acquisitions.

Under FAR Subpart 8.4, a task or delivery order (or BPA) is awarded, using the terms and conditions of the basic MAS contract. Ordering activities may add their own terms and conditions at the order level as long as they do not conflict with those of the Schedule contract. Under FAR Part 15, a stand-alone contract is awarded; this has its own terms and conditions in accordance with the FAR and agency regulations.

Topic 6: Advantages and Restrictions of Each Approach

Advantages of the MAS Program (FAR Subpart 8.4)

(slide)

- ☐ Saves time
- ☐ Streamlines the source selection process
- ☐ Provides flexible purchasing options: orders and BPAs
- ☐ Ordering activity receives socioeconomic credit

Saves Time

Under the Multiple Award Schedules program, full and open competition has already been attained. Reasonable prices have already been negotiated. For a task priced on the basis of labor hours, you will need to evaluate the level of effort and labor mix quoted, but the fully loaded labor rates have already been determined to be reasonable. The only additional thing you need to do is ask for further discounts.

In addition, terms and conditions are already in place, and publication on the FedBizOpps website is not required for most purchases. The result is that using FAR Subpart 8.4 can save considerable time.

Streamlines the Source Selection Process

If a purchase is below the micro-purchase threshold, the ordering activity can simply place an order with any Schedule holder as long as orders are rotated. For purchases under the SAT, the ordering activity solicits three contractors. Above the SAT, the ordering activity should contact enough vendors to ensure three quotes.

If you do have a situation in which only one company is capable of meeting your requirement, a Limited Sources Justification (LSJ) is required. Although the same levels of approval are required, an LSJ is a simpler document than is a Justification for Other Than Full and Open Competition (JOFOC).

Provides Flexible Purchasing Options

Using the MAS program provides flexibility in purchasing. You can place an order under one of the many Schedules or establish a Blanket Purchase Agreement (BPA). BPAs can be used for simple recurring requirements and for complex services requirements.

You can also look at Contractor Team Arrangements (CTAs) to facilitate complete solutions. A CTA is defined by GSA as an arrangement between two or more GSA MAS contractors to work

together to meet an agency requirement, thereby offering for a total solution to an ordering activity.


Ordering Activity Receives Socioeconomic Credit

In addition, the use of FAR Subpart 8.4 facilitates achieving socioeconomic goals. Awards to small and small disadvantaged businesses count toward your agency's goals.

In accordance with FAR 8.405-5, set-asides to small businesses are permitted at the Contracting Officer's discretion. It is perfectly acceptable to choose small businesses for awards under the micro-purchase threshold, to solicit three small businesses for requirements between the micro-purchase threshold and the SAT, and to ensure that small businesses have the opportunity to quote on all requirements.

Common Acquisition Platform

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**Common
Acquisition
Platform**

- Solution comparisons
- “Hallways”
- Connections
- Other resources

<https://hallways.cap.gsa.gov>

CAP – Online access to everything available in a particular product/service category.

The Common Acquisition Platform (CAP) is an initiative to provide a common set of digital and shared services for all Government purchasers. The goal is to provide online access to everything available for a particular product or service category. For example, if someone is purchasing IT hardware or travel services, all resources related to those categories are consolidated in CAP.

Currently, there are approximately 500 groups purchasing more than \$400 billion of products and services governmentwide. This fragmentation results in a great deal of duplication and an inability to fully leverage the collective purchasing power of the Federal Government. It also makes it harder and more costly to do business, both for the Government and for the industry partners who do business with us. CAP is an effort to address these issues by providing a holistic view of the products and services that need to be acquired.

CAP features include:

- ❖ **Solution Comparisons.** The platform brings together content from both Government and industry to allow Government purchasers to compare solutions (including sample SOWs) in a particular product/service category.
- ❖ **“Hallway” Resources.** Hallways, also organized by product/service category, provide access to a wide range of category-specific information and tools.
- ❖ **Connections to Other Acquisition Professionals.** Acquisition professionals from across the Government can connect and contribute their own ideas, join discussions, and share best practice samples and templates.
- ❖ **Personal Project Center.** One of the newer features allows users to personalize their workspace and start building their own acquisition projects.
- ❖ **Other Resources and Tools, Communities, Events, and News**

CAP can be accessed at: <https://hallways.cap.gsa.gov>.

eLibrary

(slide)



The slide features the GSA eLibrary logo, which consists of a blue square with the letters 'GSA' in white, followed by the word 'eLibrary' in red. To the right of the logo is a blue bracket grouping a list of four items: 'Schedules listings', 'Descriptions', 'Clauses', and 'Contractor details'. Below the logo and list is the website address 'www.gsaelibrary.gsa.gov'. At the bottom of the slide, a tagline reads: 'eLibrary - The official online source for complete GSA and VA Schedules information – a great market research tool.'

Another advantage of the MAS Schedule program is the eTools that serve as excellent resources to help you use the MAS program. Because so much information is available in one place, purchasing can be done easily and quickly.

GSA *eLibrary* provides access to information on millions of supplies and services. It is the official centralized online source for complete GSA and Veterans Affairs (VA) Schedules information, including:

- ❖ Basic ordering guidelines
- ❖ Complete Schedule listings
- ❖ Powerful search engine
- ❖ Vendor's socioeconomic status
- ❖ Vendor GSA Price Lists

GSA *eLibrary* searches can be conducted using various search options, e.g., Schedule contractor's name, contract number, SIN, Schedule number or keyword. GSA *eLibrary* provides links to GSA *Advantage!*® and *eBuy* for ordering activities and provides direct access to contractor websites and email addresses.

eLibrary is a great market research tool. You can use it to locate companies that sell the goods/services needed, along with their socioeconomic status, prices and offerings, etc. Each company with a MAS contract must publish an Authorized Federal Supply Schedule Price List, containing all items or services offered under the Schedule, their prices, and terms and conditions for each SIN.

GSA Advantage!

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- Search
- Review
- Place Order
- View history

www.gsaadvantage.gov

GSA Advantage! - An online shopping service through which ordering activities may place orders against the Schedules using the Governmentwide Purchase Card.

GSA Advantage!® is an online catalog, information, and ordering system. The system gives authorized customers the ability to search, identify, compare, and order Schedule items that offer the best value to the Government. By using GSA Advantage!®, the user can search through the millions of supplies and services that are available under Schedule contracts. It is the first stop for commodity purchases. When beginning market research for any commodity procurement, a good first step is a simple search for the product under GSA Advantage!®.

GSA Advantage!® is particularly useful for purchases of commercial supplies and well defined services. General descriptions (on the left side of the page) link to descriptions of the applicable Schedules.



NUTS AND BOLTS TIP

No registration is required to use GSA Advantage!® or eLibrary for market research. State and local governments, educational institutions, and the public can use these tools.

eBuy

(slide)



- Post Requirements
- Issue RFI/RFQ
- Notification of Award

www.ebuy.gsa.gov

eBuy - An online RFQ system that allows ordering activities to post requirements, obtain quotes, and issue orders.

GSA's *eBuy* is a component of GSA *Advantage!*®. It is an electronic Request for Quotations (RFQ) system that allows Government buyers to request information, find sources, and prepare RFQs online for millions of services and products offered through GSA's Multiple Award Schedule (MAS) and GSA Technology contracts. Government buyers can use *eBuy* to obtain quotes for services, large quantity purchases, big ticket items, and purchases with complex requirements.

eBuy streamlines the buying process with point and click functionality by allowing RFQs and Requests for Information (RFIs) to be exchanged between Federal buyers and Schedule contractors. Use of *eBuy* increases competition in Federal contracting through its transparency feature, allowing maximum exposure to all vendors within a specific Special Item Number (SIN). *eBuy* greatly supports civilian and DoD goals of increased competition in contracting.

Market research may be facilitated by using *eBuy* to distribute an RFI to Schedule contractors. This can produce valuable feedback from potential Schedule contractors on how to best tailor the acquisition and how to best utilize Schedule sources. RFIs should be clearly identified as such, and include a statement such as: "This is a request for information only. No award will be made as a result of this request."



NUTS AND BOLTS TIP

Note: Posting an RFQ on *eBuy* is one means for providing fair notice to all contractors, as required by FAR 8.405.

FAR Part 13 Advantages

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- ☐ Combined solicitation/synopsis for commercial items
- ☐ Fast acquisition of products and/or services not available on a Schedule
- ☐ Orders made through BPAs
- ☐ Prompt method of evaluation

FAR Part 13 outlines procedures for simplified acquisitions. For purchases under the SAT, it provides for:

- ❖ Combined solicitation/synopsis for commercial items
- ❖ Fast acquisition of products and/or services not available on a Schedule. These include construction and R&D.
- ❖ Orders made through BPAs

It also permits a prompt method of evaluation, where the criteria can be limited to technical capability, price, and past performance. Small business set-asides are permissible and, in some cases, required.

FAR Part 15 Advantages

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- ☐ Flexibility to negotiate contract type
- ☐ Flexibility to negotiate terms and conditions
- ☐ Procedures to establish competitive range

FAR Part 15 provides for full flexibility to negotiate any approach to contracting for supplies and services, including the flexibility to negotiate such items as contract type and terms and conditions.

- ❖ A full range of contract types can be negotiated, including award and incentive fee contracts and hybrid types with fixed-price contract line item numbers (CLINs) and cost-type CLINs, if necessary. With other approaches (the MAS program, e.g.), contract types are often limited.
- ❖ FAR Part 15 also offers more flexibility for negotiating terms and conditions that will work best for the agency. This flexibility is extremely advantageous in many circumstances. For example, complex requirements for things like specialized system development or research demand such flexibility.

The constraints of the FAR and your agency supplement are the only limits on what you can negotiate under FAR Part 15.

FAR Part 15 also provides for procedures to reduce the number of competing offerors to a competitive range and effectively eliminate all but the most competitive sources. This allows the Contracting Officer to eliminate the firms that have little chance of receiving an award from the competitive range and as a result, eliminate the need to deal with those firms further. This determination can be made based on both price and technical capability.

In addition, FAR 15.202 allows a two-step process where firms are asked to submit capabilities statements, past performance information, and pricing. The firms with little chance for award are advised not to participate further. (Unlike a competitive range determination, this is merely advisory.) Once the firms with a good chance for award have been identified, the acquisition proceeds with the request for a full quote. This process requires a synopsis announcing the down-select approach.

FAR Subpart 8.4 Restrictions

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- ☐ Restrictions to Contract Types
- ☐ Restrictions to Terms and Conditions
- ☐ Restrictions to Modifications to Products/Services
- ☐ Restrictions to Mixing Approaches

While each of the three approaches offers advantages, there are also disadvantages and restrictions associated with their use. For FAR Subpart 8.4, restrictions include:

Restrictions to Contract Types. Under FAR Subpart 8.4, contracts must be Fixed-Price; Time and Materials (T&M) or Labor Hours (LH); or Fixed-Price with Economic Price Adjustment (FP-EPA). No cost-type contracts are allowed under the MAS program. As a result, FAR Subpart 8.4 procedures are not a good fit when a cost-type instrument is warranted, for example, for research or system development.

Restrictions to Terms and Conditions. The terms and conditions must be in accordance with terms and conditions of the underlying Schedule contract. So FAR Subpart 8.4 procedures are not suitable when the basic Schedule contract fails to meet your needs. Ordering activities are permitted to negotiate additional terms and conditions for orders as long as they don't conflict with those of the underlying Schedule contract.

Restrictions to Modifications to Products/Services. FAR Subpart 8.4 is useful for purchasing commercial products and services, but those products and services must be consistent with the pre-priced ones on a Schedule. FAR Part 15 may be a better fit:

- ❖ For complex non-commercial developments, or
- ❖ If more than minimal modification is needed

Restrictions to Mixing Approaches

If you begin a purchase using FAR Subpart 8.4 procedures, discover unanticipated problems or complications during the source selection, and find yourself conducting a detailed evaluation as is done under a FAR Part 15 source selection, there is an additional consideration: If there is a protest, GAO may evaluate your actions by FAR Part 15 standards.

See *Finlen Complex, Inc.* B-288280: Oct 10, 2001 decision at <http://www.gao.gov/products/A02449>.

FAR Part 13 Restrictions

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- ☐ BPA orders cannot exceed the SAT.

- ☐ There is no binding contract until contractor accepts the order.

There are two major restrictions to using FAR Part 13:

- ❖ Orders placed against BPAs established under FAR Part 13 procedures cannot exceed the SAT.
- ❖ Since quotations are not legally binding, agencies must wait until a contractor accepts the order to know if there's a binding contract. Quotations generally become the basis for a Government-issued purchase order, which is legally an offer from the Government to buy products and services at the stated price. The arrangement does not become a binding contract until the contractor accepts the order.

FAR Part 15 Restrictions

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- ☐ Time-consuming
- ☐ Resource-intensive
- ☐ More prone to protests

There are also restrictions and disadvantages in using FAR Part 15 procedures.

Time-Consuming

Under FAR Part 15, it takes much longer to make an award. A complex FAR Part 15 negotiation can take several months to complete. In contrast, Schedule orders placed under FAR Subpart 8.4 can be placed in days or weeks.

Resource-Intensive

Because of all the regulatory requirements in negotiated acquisitions, there are many additional steps. As a result, many more resources are required. Key among these resources are people. Negotiated acquisitions under FAR Part 15 are best done by an experienced team, typically an Integrated Project Team (IPT). The IPT should be comprised of functional/technical experts in all areas involved in the acquisition, including hardware, software, information security, physical security, legal staff, etc. A good practice is to have the negotiation team led by an experienced Contracting Officer. The more complex the requirement, the more important it is to have an experienced IPT assigned.

More Prone to Protests

FAR Part 15 includes highly detailed procedures for competing and awarding contracts. Because of this, FAR Part 15 acquisitions are more likely to be protested than other types of acquisitions.

Course Exercises

Exercise 1

Situation:

The deputy program manager (DPM) of the Biosecurity program stops by your office with a requirements package he is drafting. The program is planning to buy a suite of sensors and automated analysis equipment that will be deployed in various cities to collect and analyze air samples, feed data in real time to a central database, and issue alerts if specified biological agents are detected. The system must be capable of reconfiguration in response to evolving threats.

The market research that the DPM has completed indicates that the sensors and automated analyzers are available on GSA Schedule 66 (with minor tweaks to hardware). Some new software will be needed to make the commercial products compatible with the existing Government-owned database, and the alarm system needs to be completely rebuilt. Existing systems are also not easily reconfigurable.

You scan the documents, and note that the hardware seems to have a lot of Government-unique requirements. The existing database, with which everything must be compatible, was custom-developed for the agency. It is difficult to tell how much software development is needed.

Because the requirement is urgent, the DPM wants to use the MAS and go sole source to Company X, who has “done a great job in the past on some of our laboratory projects — been really cooperative when we needed custom configurations.”

Question:

What is your recommended strategy and why? Discuss the pros and cons of the DPM's preferred approach in your workgroups, and present a group recommendation, along with the rationale.

Answer:

Exercise 2

Scenario:

The U.S. Geological Survey (USGS) has a requirement for a hydrologic analyst to review, analyze, and summarize all scientific journal and other publications discussing hydrologic issues within the 48 contiguous states. The period for which reviews are required includes calendar years 2017 and 2018. Findings and recommendations shall be clearly stated, with supporting documentation. The period of performance for this work is 90 days from the date of award, and the Government estimate for the work is \$36,750.

How would you recommend that the procurement be conducted?

Answer:

Exercise 3

Scenario:

Your agency's headquarters for finance and budget, with over 300 people, is moving into a new office. The move committee chairperson and one of the other committee members come to your office with a draft requirements package for the new office furniture. They have the approved floor plan, with specific requirements for the executive suite, conference rooms, supervisors' offices, and cubicles. The committee has also developed detailed plans for how the furniture is to be configured, and the chairperson stresses that the CFO is very interested in making sure that the office presents a professional appearance and a pleasant atmosphere. "We have all been in too many Government offices where the furniture was so old and tacky or badly arranged that it was positively a detriment to morale," she states, shaking her head. "How can we make sure that we end up with an office in which people are happy to work while jumping through all these procurement hoops?"

You review the documents and see that while the committee has developed some very specific requirements, there is nothing especially unique or unusual about them.

Question:

How do you recommend that the procurement be conducted?

Answer:



Knowledge Check 1

Reasonable prices with pre-established terms and conditions already in place are advantages to using _____.

- ☐ eBay
- ☐ Multiple Award Schedules
- ☐ Open market vendors



Knowledge Check 2

What are some major disadvantages to using FAR Part 15 over FAR Subpart 8.4 or FAR Part 13?

Answer:

Web Resources

- ❖ MAS Training Student Guides: <http://www.gsa.gov/portal/content/141427>
- ❖ MAS Desk Reference www.gsa.gov/masdeskreference
- ❖ Multiple Award Schedules Home Page <http://www.gsa.gov/schedule>
- ❖ eLibrary www.gsaelibrary.gsa.gov
- ❖ GSA Advantage!® www.gsaadvantage.gov
- ❖ eBuy www.ebuy.gsa.gov
- ❖ MAS News and Training www.gsa.gov/masnews
- ❖ Federal Acquisition Regulation (FAR) www.acquisition.gov/far
- ❖ Monthly Webinars sponsored by the MAS Program Office www.gsa.gov/masnews
- ❖ Training Videos <http://www.gsa.gov/portal/content/210517>
- ❖ Continuous Learning Modules <http://icatalog.dau.mil/> Search for continuous learning modules with FAC prefix.
- ❖ GSA YouTube channel <https://www.youtube.com/user/usgsa>